

AMENDED IN SENATE JANUARY 13, 2012

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN ASSEMBLY MARCH 7, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 272

Introduced by Assembly Member Monning

February 7, 2011

An act to amend Section 15438 of, and to add Section 15438.10 to, the Government Code, relating to health facilities financing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 272, as amended, Monning. Health care facilities: financing.

The California Health Facilities Financing Authority Act authorizes the California Health Facilities Financing Authority to make loans from the continuously appropriated California Health Facilities Financing Authority Fund to participating health institutions for financing or refinancing the acquisition, construction, or remodeling of health facilities. The act defines a health facility to include various specified facilities and facilities operated in conjunction with these facilities. It also defines a participating health institution to mean specified entities authorized by state law to provide or operate a health facility and undertake the financing or refinancing of the construction or acquisition of a project or of working capital, as defined.

Existing law authorizes the authority to award grants to any eligible health facility, as defined, for purposes of financing defined projects.

This bill would authorize the authority to award one or more grants that, in the aggregate, do not exceed \$1,500,000 to one or more projects designed to demonstrate new or enhanced cost-effective methods of delivering health care services, as specified. This bill would authorize the authority to award additional grants that, in the aggregate, do not exceed \$5,000,000 to eligible recipients, as defined by the authority, to replicate the model developed by a project, if specified conditions are met, and would authorize the authority to adopt regulations relating to this grant program as emergency regulations. This bill would create the California Health Access Model Program Account in the California Health Facilities Financing Authority Fund, and would transfer up to \$6,500,000 from the fund to the account for the purposes of the bill. The bill would require that any moneys remaining in the account as of January 1, 2020, revert to the fund. By expanding the purposes for which a continuously appropriated fund may be used, this bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15438 of the Government Code is
2 amended to read:
3 15438. The authority may do any of the following:
4 (a) Adopt bylaws for the regulation of its affairs and the conduct
5 of its business.
6 (b) Adopt an official seal.
7 (c) Sue and be sued in its own name.
8 (d) Receive and accept from any agency of the United States,
9 any agency of the state, or any municipality, county, or other
10 political subdivision thereof, or from any individual, association,
11 or corporation gifts, grants, or donations of moneys for achieving
12 any of the purposes of this chapter.
13 (e) Engage the services of private consultants to render
14 professional and technical assistance and advice in carrying out
15 the purposes of this part.

(f) Determine the location and character of any project to be financed under this part, and to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, fund, finance, own, maintain, manage, repair, operate, lease as lessee or lessor, and regulate the same, to enter into contracts for any or all of those purposes, to enter into contracts for the management and operation of a project or other health facilities owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by that participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, and regulate the same, and as the agent of the authority, to enter into contracts for any or all of those purposes, including contracts for the management and operation of that project or other health facilities owned by the authority.

(g) Acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell, by installment sale or otherwise, any lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, that are located within the state that the authority determines necessary or convenient for the acquisition, construction, or financing of a health facility or the acquisition, construction, financing, or operation of a project, upon the terms and at the prices considered by the authority to be reasonable and that can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of a project or any portion of a project in money, property, labor, or other things of value.

(i) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in connection with the financing of a project or working capital in accordance with an agreement between the authority and the participating health institution. However, no loan to finance a

1 project shall exceed the total cost of the project, as determined by
2 the participating health institution and approved by the authority.
3 Funds for secured loans may be provided from the California
4 Health Facilities Financing *Authority* Fund pursuant to subdivision
5 (b) of Section 15439 to small or rural health facilities pursuant to
6 authority guidelines.

7 (j) (1) Make secured or unsecured loans to, or purchase secured
8 or unsecured loans of, any participating health institution in
9 accordance with an agreement between the authority and the
10 participating health institution to refinance indebtedness incurred
11 by that participating health institution or a participating health
12 institution that controls or manages, is controlled or managed by,
13 is under common control or management with, or is affiliated with
14 that participating health institution, in connection with projects
15 undertaken or for health facilities acquired or for working capital.

16 (2) Make secured or unsecured loans to, or purchase secured or
17 unsecured loans of, any participating health institution in
18 accordance with an agreement between the authority and the
19 participating health institution to refinance indebtedness incurred
20 by that participating health institution or a participating health
21 institution that controls or manages, is controlled or managed by,
22 is under common control or management with, or is affiliated with
23 that participating health institution, payable to the authority or
24 assigned or pledged to authority issued bonds.

25 (3) Funds for secured loans may be provided from the California
26 Health Facilities Financing *Authority* Fund pursuant to subdivision
27 (b) of Section 15439 to small or rural health facilities pursuant to
28 authority guidelines.

29 (k) Mortgage all or any portion of interest of the authority in a
30 project or other health facilities and the property on which that
31 project or other health facilities are located, whether owned or
32 thereafter acquired, including the granting of a security interest in
33 any property, tangible or intangible, and to assign or pledge all or
34 any portion of the interests of the authority in mortgages, deeds
35 of trust, indentures of mortgage or trust, or similar instruments,
36 notes, and security interests in property, tangible or intangible, of
37 participating health institutions to which the authority has made
38 loans, and the revenues therefrom, including payments or income
39 from any thereof owned or held by the authority, for the benefit
40 of the holders of bonds issued to finance the project or health

1 facilities or issued to refund or refinance outstanding indebtedness
2 of participating health institutions as permitted by this part.

3 (l) Lease to a participating health institution the project being
4 financed or other health facilities conveyed to the authority in
5 connection with that financing, upon the terms and conditions the
6 authority determines proper, charge and collect rents therefor,
7 terminate the lease upon the failure of the lessee to comply with
8 any of the obligations of the lease, and include in that lease, if
9 desired, provisions granting the lessee options to renew the term
10 of the lease for the period or periods and at the rent, as determined
11 by the authority, purchase any or all of the health facilities or that
12 upon payment of all of the indebtedness incurred by the authority
13 for the financing of that project or health facilities or for refunding
14 outstanding indebtedness of a participating health institution, then
15 the authority may convey any or all of the project or the other
16 health facilities to the lessee or lessees thereof with or without
17 consideration.

18 (m) Charge and equitably apportion among participating health
19 institutions, the administrative costs and expenses incurred by the
20 authority in the exercise of the powers and duties conferred by this
21 part.

22 (n) Obtain, or aid in obtaining, from any department or agency
23 of the United States or of the state, any private company, or any
24 insurance or guarantee as to, of, or for the payment or repayment
25 of, interest or principal, or both, or any part thereof, on any loan,
26 lease, or obligation, or any instrument evidencing or securing the
27 loan, lease, or obligation, made or entered into pursuant to this
28 part; and notwithstanding any other provisions of this part, to enter
29 into any agreement, contract, or any other instrument whatsoever
30 with respect to that insurance or guarantee, to accept payment in
31 the manner and form as provided therein in the event of default
32 by a participating health institution, and to assign that insurance
33 or guarantee as security for the authority's bonds.

34 (o) Enter into any and all agreements or contracts, including
35 agreements for liquidity or credit enhancement, bond exchange
36 agreements, interest rate swaps or hedges, execute any and all
37 instruments, and do and perform any and all acts or things
38 necessary, convenient, or desirable for the purposes of the authority
39 or to carry out any power expressly granted by this part.

(p) Invest any moneys held in reserve or sinking funds or any moneys not required for immediate use or disbursement, at the discretion of the authority, in any obligations authorized by the resolution authorizing the issuance of the bonds secured thereof or authorized by law for the investment of trust funds in the custody of the Treasurer.

(q) Award grants to any eligible clinic pursuant to Section 15438.6.

(r) Award grants to any eligible health facility pursuant to Section 15438.7.

(s) (1) Notwithstanding any other provision of law, provide a working capital loan of up to five million dollars (\$5,000,000) to assist in the establishment and operation of the California Health Benefit Exchange (Exchange) established under Section 100500. The authority may require any information it deems necessary and prudent prior to providing a loan to the Exchange and may require any term, condition, security, or repayment provision it deems necessary in the event the authority chooses to provide a loan. Under no circumstances shall the authority be required to provide a loan to the Exchange.

(2) Prior to the authority providing a loan to the Exchange, a majority of the board of the Exchange shall be appointed and shall demonstrate, to the satisfaction of the authority, that the federal planning and establishment grants made available to the Exchange by the United States Secretary of Health and Human Services are insufficient or will not be released in a timely manner to allow the Exchange to meet the necessary requirements of the federal Patient Protection and Affordable Care Act (Public Law 111-148).

(3) The Exchange shall repay a loan made under this subdivision no later than June 30, 2016, and shall pay interest at the rate paid on moneys in the Pooled Money Investment Account.

(t) Award grants pursuant to Section 15438.10.

SEC. 2. Section 15438.10 is added to the Government Code, to read:

15438.10. (a) The Legislature finds and declares the following:

(1) Many Californians face serious obstacles in obtaining needed health care services, including, but not limited to, medical, mental health, and dental services. The obstacles faced by vulnerable populations and communities include existence of complex medical, physical, or social conditions, disabilities, economic

1 disadvantage, and living in remote or underserved areas that make
2 it difficult to access services.

3 (2) With the recent passage of national health care reform, there
4 is an increased demand for innovative ways to deliver health care
5 to individuals in a cost-effective manner.

6 (3) Technological innovation continues to create opportunities
7 for developing new methods of delivering needed services to
8 vulnerable populations and communities cost-effectively and with
9 improved health outcomes.

10 (4) There is a need to develop new methods of delivering health
11 services utilizing innovative models that can be demonstrated to
12 be effective and then replicated throughout California and that
13 bring community-based health care to individuals where they live
14 or receive education, social, or general health services.

15 (5) For more than 30 years, the California Health Facilities
16 Financing Authority has provided financial assistance through
17 tax-exempt bonds, low-interest loans, and grants to health facilities
18 in California, assisting in the expansion of the availability of health
19 services and health care facilities throughout the state.

20 (b) (1) Following the completion of a competitive selection
21 process ~~that shall be exempt from the competitive bidding~~
22 ~~requirements of Chapter 2 (commencing with Section 10290) of~~
23 ~~Part 2 of Division 2 of the Public Contract Code~~, the authority may
24 award one or more grants that, in the aggregate, do not exceed one
25 million five hundred thousand dollars (\$1,500,000) to one or more
26 projects designed to demonstrate specified new or enhanced
27 cost-effective methods of delivering health care services to improve
28 access to quality health care for vulnerable populations or
29 communities, or both, that are effective at enhancing health
30 outcomes and improving access to quality health care. These health
31 care services may include, but are not limited to, medical, mental
32 health, or dental services for the diagnosis, care, prevention, and
33 treatment of human illness, or individuals with physical, mental,
34 or developmental disabilities. More than one demonstration project
35 may receive a grant pursuant to this section. It is the intent of the
36 Legislature for a demonstration project that receives a grant to
37 allow patients to receive screenings, diagnosis, or treatment in
38 community settings, including, but not limited to, school-based
39 health centers, adult day care centers, and residential care facilities
40 for the elderly, or for individuals with mental illness or

1 developmental disabilities. It is also the intent of the Legislature
2 for a demonstration project that receives a grant to take advantage
3 of advances in telecommunications technologies that will produce
4 a more accessible and cost-effective delivery system for needed
5 services and improved health outcomes.

6 (2) A grant awarded pursuant to this subdivision may be
7 allocated in increments to a demonstration project over multiple
8 years to ensure the demonstration project's ability to complete its
9 work, as determined by the authority. Prior to the initial allocation
10 of funds pursuant to this subdivision, the administrators of the
11 demonstration project shall provide evidence that the demonstration
12 project has or will have additional funds sufficient to ensure
13 completion of the demonstration project. If the authority allocates
14 a grant in increments, each subsequent year's allocation shall be
15 provided to the demonstration project only upon submission of
16 research that shows that the project is progressing ~~towards~~ toward
17 the identification of a cost-effective delivery model that improves
18 health outcomes and access to quality health care for vulnerable
19 populations or communities, and can be replicated throughout the
20 state in community settings.

21 (3) ~~A health facility that qualifies as a "small and~~
22 ~~rural hospital" pursuant to Section 124840 of the Health and~~
23 ~~Safety Code, a health facility that has received tax-exempt bond~~
24 ~~financing from the authority shall not be eligible to receive funds~~
25 ~~awarded for a demonstration project. Such a health facility may~~
26 ~~participate as an uncompensated partner or member of a~~
27 ~~collaborative effort that is awarded a demonstration project grant.~~

28 (4) *Funds provided to a demonstration project pursuant to this*
29 *subdivision may be used to supplement, but not to supplant, existing*
30 *financial and resource commitments of the grantee or grantees or*
31 *any other member of a collaborative effort that has been awarded*
32 *a demonstration project grant.*

33 (c) (1) If a demonstration project that receives a grant pursuant
34 to subdivision (b) is successful at developing a new method of
35 delivering cost-effective health care services in community settings
36 that result in increased access to quality health care or improved
37 health care outcomes, then, beginning as early as the second year
38 after the initial allocation of moneys provided pursuant to
39 subdivision (b), the authority may implement a second grant
40 program that awards not more than five million dollars

1 (\$5,000,000), in the aggregate, to eligible recipients as defined by
 2 the authority, to replicate in additional California communities the
 3 model developed by a demonstration project that received a grant
 4 pursuant to subdivision (b). ~~The award of these replication grants~~
 5 ~~shall be exempt from the competitive bidding requirements of~~
 6 ~~Chapter 2 (commencing with Section 10290) of Part 2 of Division~~
 7 ~~2 of the Public Contract Code.~~ Prior to the implementation of this
 8 second grant program, the authority shall prepare and provide a
 9 report to the Legislature and the Governor on the outcomes of the
 10 demonstration project. The report shall be made in accordance
 11 with Section 9795.

12 (2) If the authority implements the second grant program, the
 13 authority shall also report annually, beginning with the first year
 14 of implementation of the second grant program, to the Legislature
 15 and the Governor regarding the program, including, but not limited
 16 to, the total amount of grants issued pursuant to this subdivision,
 17 the amount of each grant issued, and a description of each project
 18 awarded funding for replication of the model.

19 (3) Grants under this subdivision may be utilized for eligible
 20 costs, as defined in subdivision (c) of Section 15432, including
 21 equipment, information technology, and working capital, as defined
 22 in subdivision (h) of Section 15432.

23 (4) The authority may adopt regulations relating to the grant
 24 program authorized pursuant to this subdivision, including
 25 regulations that define eligible recipients, eligible costs, and
 26 minimum and maximum grant amounts, as emergency regulations
 27 in accordance with Chapter 3.5 (commencing with Section 11340)
 28 of Part 1. For purposes of Chapter 3.5 (commencing with Section
 29 11340) of Part 1, including Section 11349.6, the adoption of the
 30 regulations shall be considered by the Office of Administrative
 31 Law to be necessary for the immediate preservation of the public
 32 peace, health and safety, and general welfare.

33 (d) There is hereby created the California Health Access Model
 34 Program Account in the California Health Facilities Financing
 35 Authority Fund. All moneys in the account are hereby continuously
 36 appropriated to the authority for carrying out the purposes of this
 37 section. An amount of up to six million five hundred thousand
 38 dollars (\$6,500,000) shall be transferred from funds in the
 39 California Health Facilities Financing Authority Fund that are not
 40 impressed with a trust for other purposes into the California Health

1 Access Model Program Account for the purpose of issuing grants
2 pursuant to this section. Any moneys remaining in the California
3 Health Access Model Program Account on January 1, 2020, shall
4 revert as of that date to the California Health Facilities Financing
5 Authority Fund.

6 SEC. 3. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety within
8 the meaning of Article IV of the Constitution and shall go into
9 immediate effect. The facts constituting the necessity are:

10 In order to assist underserved and vulnerable health care
11 populations at the earliest possible time, it is necessary that this
12 act take effect immediately.